



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 20, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0238

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged the named employees engaged in bias-based policing by arresting him due to his race.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's (OIG's) review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

On June 28, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant made a statement to officers processing his arrest to the effect of, "you only arrested me because I am brown." This was reported to an SPD supervisor, who filed this complaint with OPA.



OPA opened an intake investigation. During this intake, OPA reviewed the complaint, computer-aided dispatch (CAD) call report, incident report and officer statements, and body-worn video (BWV). OPA also contacted the Complainant, who declined to participate in the investigation.

OPA finds that, more likely than not, the following occurred.

SPD officers—including Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3 (NE#3)—responded to a 9-1-1 call at a sports bar. The caller was a security guard at the bar who reported the suspect threatened to shoot him. The suspect was described as a possibly Native American male, in his thirties, about five feet eight inches tall, with a medium build, wearing a dark business suit. The caller also reported the suspect was with another male, who was possibly Hispanic, in his thirties, about six feet tall, and wearing an orange tank top. The caller reported the suspect (the Complainant) and his companion (Community Member #1 or CM#1) were last seen on foot. The caller provided a location and direction of flight.

NE#1 and NE#2 arrived in the area of the call and observed CM#1—a male in an orange tank top matching the companion’s description—getting in a vehicle. As NE#1 and NE#2 approached, they also observed the Complainant—a man matching the suspect’s description—in the passenger seat of the same vehicle. NE#1 and NE#2 detained the Complainant and CM#1.

While the Complainant and CM#1 were detained, NE#1 spoke to the 9-1-1 caller, who reported the Complainant had been kicked out of the bar when the Complainant told the caller, “Do you want to die tonight?” The caller reported the Complainant then reached for his waist band, indicating he had a weapon. The caller also reported the Complainant called the caller the “n-word” multiple times while asking the caller if he wanted to die. The caller reported he and the Complainant then got in a fight, resulting in injury to the Complainant.

NE#2 spoke to CM#1. CM#1 described the Complainant getting into an altercation inside the bar with another patron, then being thrown out of the bar. CM#1 stated the Complainant then “got his ass whooped” by bar staff. CM#1 stated the Complainant had consumed six to eight “IPAs.”

NE#3 stood by the Complainant while a victim show up was conducted. NE#3 heard over the radio that the victim positively identified the Complainant as the suspect. NE#3 then informed the Complainant he was under arrest.

When an SPD supervisor spoke to the Complainant about his allegation that he was arrested due only to his race, the Complainant responded, “fuck that allegation.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

The Complainant alleged the named employees arrested him based only on his race.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatment based on the race of the



subject. See id. Officers are forbidden from both, (i) making decisions or taking actions influenced by bias, and (ii) expressing any prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140 POL-2.

This allegation is unfounded. OPA reviewed all BWV and relevant documentation for this incident. BWV and CAD records showed that the named employees identified the Complainant based on his location and that he was wearing the same clothing and matched the description provided by the 9-1-1 caller. The Complainant's associate also matched the description provided by the caller. A victim show-up was conducted and the victim positively identified the Complainant as the suspect. Additionally, a witness officer interviewed a witness who partially corroborated the victim's account of the incident. The Complainant was asked to elaborate on his bias allegations during a post-arrest screening. However, the Complainant did not appear to be concerned and stated, "fuck that allegation." When OPA contacted the Complainant to be interviewed, he advised he did not want to participate in the investigation.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

For the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #3 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

For the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**